

**REMARKS**

The Examiner has requested Applicant to elect a single sequence from amended Claim 11. Accordingly, the Applicant presumes that previously amended claims 1, 14, and 18 are acceptable and provisionally elects nucleotide sequence 5'-GCAUGG-3' of Claim 11 with traverse.

With respect to Claim 11, the Examiner states in the November 20, 2003 Action that each "of the sequences claimed represents a chemically distinct enzyme." Therefore, the "instant invention embodied in claim 11 represents structurally distinct and independent inventions." However, Claim 1 (which Claim 11 depends upon), has been amended to an enzyme having certain structures defined by certain physical and chemical characteristics. Consequently, the enzymes are bound by the limitations set forth in Claim 1.

Moreover, even if the restriction requirement is necessitated by having nucleotides encoding for different enzymes, such claims are allowed. Indeed, the M.P.E.P. makes clear that even though "[n]ucleotide sequences encoding **different proteins** are structurally distinct chemical compounds and are unrelated to one another...[and] thus deemed to normally constitute independent and distinct inventions...the Commissioner has decided *sua sponte* to partially waive the requirements of 37 C.F.R. 1.141 *et seq.* and permit a reasonable number of such nucleotide sequences to be claimed in a single application." M.P.E.P. § 803.04 (bold added).

Accordingly, even if each of the nucleotide sequences listed under Claim 11 are considered independent and distinct, Claim 11 only lists six (6) nucleotide sequences. "It has been determined that normally ten sequences constitute a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction." M.P.E.P. § 803.04. Therefore, Claim 11 falls well within the "reasonable number" of nucleotide sequences allowed in one application.

**CONCLUSION**

Applicant believes all of the Examiner's concerns have been addressed. However, if the Examiner has any further questions, please contact the undersigned.

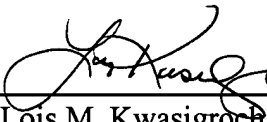
The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to Jones Day's Deposit Account No. 50-2468.

Respectfully submitted,

JONES DAY

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